

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONNIE STEELMAN,)	
)	
Plaintiff,)	
)	Case No. 4:12CV00141 ERW
PHELPS COUNTY BANK,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court upon Defendant's Motion to Dismiss Plaintiff's Complaint for Failure to Prosecute, or, in the Alternative, for Costs and Sanctions [ECF No. 37].

On August 2, 2012, counsel for Defendant contacted Plaintiff to discuss various matters in order to facilitate the discovery process. During the conversation, Plaintiff stated she would provide her available dates for deposition on or before August 9, 2012, so as to comply with the Case Management Order [ECF No. 19]. Plaintiff failed to provide dates by the time she had agreed upon, or in accordance with the Case Management Order. On August 16, 2012, counsel for Defendant wrote Plaintiff a letter requesting a date for a deposition. Hearing no reply from Plaintiff, Counsel for Defendant set the deposition for September 21, 2012, and properly noticed Plaintiff. On August 30, 2012, counsel for Defendant and Plaintiff participated in a telephone conference, and counsel for Defendant reminded Plaintiff of the deposition date that had been set. Plaintiff did not appear for her deposition on September 21, 2012. Because Plaintiff did not appear for her deposition, counsel for Defendant called Plaintiff and tried to complete the deposition while Plaintiff was on the telephone, but Plaintiff refused to go forward with the deposition and declined to complete the record. During the September 21, 2012 telephone

conference, Plaintiff further stated that she would not make herself available for deposition at any time.

This Court has granted two motions to compel Plaintiff to facilitate the discovery process [ECF Nos. 30, 34]. In both orders, one dated August 24, 2012, and one dated September 11, 2012, the Court warned Plaintiff that if she did not comply with the orders, her claims may be dismissed. Nevertheless, Plaintiff has failed to comply with the Court's orders and facilitate the discovery process and has indicated her reluctance to do so.

Accordingly,

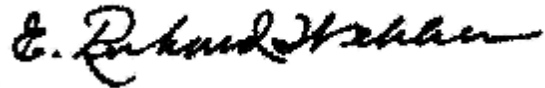
IT IS HEREBY ORDERED that Plaintiff be present on **December 13, 2012**, at **10:00 A.M.**, for the purpose of giving deposition testimony at the Thomas F. Eagleton Courthouse, 111 South 10th Street, St. Louis, Missouri 63102. This deposition will take place in the ADR Conference Room B on the Fifth floor of the Courthouse. If Plaintiff fails to appear for that deposition on December 13, 2012, her complaint will be dismissed with costs and counsel fees awarded against her. The Court will hold in abeyance awarding of cost and attorney fees for her failure to appear at the previously noticed deposition when she did not attend.

IT IS FURTHER ORDERED that a copy of this Order be sent by U.S. and Certified Mail to Connie Steelman, P.O. Box 917, Jensen Beach, Florida 34958.

IT IS FURTHER ORDERED that this Court's ruling on Defendant's Motion to Dismiss Plaintiff's Complaint for Failure to Prosecute [ECF No. 37] shall be held in abeyance

pending Plaintiff's compliance with this Order and attendance at the December 13, 2012 deposition.

Dated this 16th day of November, 2012.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE